BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 640 1991

Bill H 853 S _____ Original bill & history ✓ C

H. Committee on Local Government			S. Committee on Business & Industry		
Hearing Date(s)	2-21	✓ C	Hearing Date(s)	3-14	✓ C
		C		3-18	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LC 1478/01

House BILL NO. 853

INTRODUCED BY John Scott, Kimberley Becker McCallister

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE POWERS OF A PORT AUTHORITY; REQUIRING THE ELECTION OF LOCAL PORT AUTHORITY COMMISSIONERS; AND AMENDING SECTIONS 7-14-1101, 7-14-1103, 7-14-1104, 7-14-1111, 7-14-1112, 7-14-1125, AND 7-14-1126, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-14-1101, MCA, is amended to read:

"**7-14-1101. Local port authority.** (1) Any county or municipality may, by resolution of its governing body, create a public body, corporate and politic, to be known as a local port authority, authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. Such a governing body may by resolution determine to exercise any or all powers granted to such authorities in this part, unless such powers have been conferred upon a local or regional port authority.

(2) Upon the adoption of a resolution creating a local port authority, the governing body of the county or municipality shall, pursuant to the resolution, appoint not less than five persons as commissioners of the authority. The commissioners who are first appointed must be designated to serve for terms of 1, 2, 3, 4, and 5 years, respectively, but thereafter each commissioner must be ~~appointed~~ elected for a term of 5 years, except that vacancies occurring other than by expiration of a term must be filled for the unexpired term by the governing body."

NEW SECTION. **Section 2. Election of local port authority commissioners.** (1) Any registered elector in the county or municipality in which the local port authority is located may file a petition of candidacy with the election administrator. The petition must contain the signatures of not less than 25 registered electors of the county or municipality. The petition must be filed at least 75 days before the election day.

(2) The election must be conducted at the time provided in 13-1-104(3) and in the manner provided by 13-1-401.

(3) If no nomination petitions are filed for one or more commissioner offices, the appropriate local governing body shall appoint one or more commissioners as necessary to fill those offices.

Section 3. Section 7-14-1103, MCA, is amended to read:

"**7-14-1103. Commissioners.** (1) The powers of each authority are vested in the commissioners thereof. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its powers for all other purposes.

INTRODUCED BILL
HB 853

Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

(2) There must be elected a chairman and vice-chairman from among the commissioners. An authority may employ an executive director, secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation. An authority may delegate to one or more of its agents or employees such powers or duties as it considers proper.

(3) A commissioner of an authority is entitled to receive expenses, as provided in 2-18-501 through 2-18-503, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed or elected and has qualified. The certificates of the appointment, and reappointment, or election of commissioners must be filed with the authority."

Section 4. Section 7-14-1104, MCA, is amended to read:

"**7-14-1104. Purpose -- public and governmental functions.** (1) The purposes of a port authority are to:

(a) promote, stimulate, develop, and advance the general welfare, commerce, economic development, and prosperity of its jurisdiction and of the state and its citizens;

(b) endeavor to increase the volume of commerce within

the jurisdiction of the port authority and the state through planning, advertising, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of ~~ports and transportation and storage~~ facilities that promote the safe, efficient, and economical handling of commerce;

(c) cooperate and act in conjunction with other organizations, public or private, in the development of commerce, industry, manufacturing, services, natural resources, agriculture, livestock, recreation, tourism, health care, and other economic activity in the state;

(d) support the creation, expansion, modernization, retention, and relocation of new and existing businesses and industry in the state and otherwise stimulate, assist in, and support the growth of all kinds of economic activity that will tend to promote commerce and business development, maintain the economic stability and prosperity of its jurisdiction and of the state, and thus provide maximum opportunities for employment and improvement in the standard of living of citizens of the state.

(2) The acquisition of any land or interest in land pursuant to this part, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of ~~ports and transportation and storage~~ port

authority facilities, and the exercise of any powers granted to port authorities and other public agencies to be severally or jointly exercised are public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of any authority or other public agency, as provided in this part, must be used for public and governmental purposes and as a matter of public necessity."

Section 5. Section 7-14-1111, MCA, is amended to read:

"**7-14-1111. General powers of authority.** An authority has all the powers necessary or convenient to carry out the purposes of this part, including but not limited to the power to:

(1) certify annually to the governing bodies creating it the amount of tax to be levied by the governing bodies for port purposes;

(2) sue and be sued, have a seal, and have perpetual succession;

(3) execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this part;

(4) plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect ~~ports and transportation and storage~~

facilities. For such purposes an authority may, by purchase, gift, devise, lease, or otherwise, acquire real or personal property or any interest therein, including easements.

(5) establish comprehensive port zoning regulations in accordance with the laws of this state;

(6) acquire, by purchase, gift, devise, lease, or otherwise, existing ~~ports and transportation and storage~~ facilities as may be necessary or convenient to carry out the purposes of this part. However, an authority may not acquire or take over any ~~port or transportation and storage~~ facility owned or controlled by another authority, county, municipality, or public agency without the consent of such authority, county, municipality, or public agency.

(7) provide financial and other support to organizations in its jurisdiction, including corporations organized under the provisions of the development corporation act in Title 32, chapter 4, whose purpose is to promote, stimulate, develop, and advance the general welfare, economic development, and prosperity of its jurisdiction and of the state and its citizens by stimulating, assisting in, and supporting the growth of all kinds of economic activity, including the creation, expansion, modernization, retention, and relocation of new and existing businesses and industry in the state, all of which will tend to promote business development, maintain

the economic stability and prosperity of the state, and thus provide maximum opportunities for employment and improvement in the standards of living of citizens of the state."

Section 6. Section 7-14-1112, MCA, is amended to read:

"**7-14-1112. Rules.** An authority may adopt, amend, and repeal such reasonable resolutions, rules, and orders as it considers necessary for its own administration, management, and governance as well as for the management, governance, and use of any ~~port-or-transportation-and--storage~~ facility owned by it or under its control. No rule, order, or standard prescribed by the commission may be inconsistent with or contrary to any act of the congress of the United States or any regulation promulgated or standard established pursuant thereto. The authority shall keep on file at the principal office of the authority a copy of all its rules for public inspection."

Section 7. Section 7-14-1125, MCA, is amended to read:

"**7-14-1125. Granting of operation and use privileges.** (1) In connection with the operation of a ~~port--or transportation-and-storage~~ facility owned or controlled by an authority, the authority may enter into contracts, leases, and other arrangements for terms not to exceed 30 years with any persons:

(a) granting the privilege of using or improving the port ~~or-transportation-and-storage~~ authority facility or any

portion or facility thereof or space therein for commercial purposes;

(b) conferring the privilege of supplying goods, commodities, services, or facilities at the port ~~or transportation-and-storage~~ authority facility; and

(c) making available services to be furnished by the authority or its agents at the ~~port or transportation-and storage~~ facility.

(2) In each case the authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which must be reasonable and uniform for the same class of privilege or service and must be established with due regard to the property and improvements used and the expenses of operation to the authority."

Section 8. Section 7-14-1126, MCA, is amended to read:

"**7-14-1126. Port property -- disposal.** Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by 7-14-1136, an authority may sell, lease, or otherwise dispose of any ~~port, transportation--and storage~~ facility, or other property or portion thereof or interest therein acquired pursuant to this part. Such disposal by sale, lease, or otherwise must be in accordance with the laws of this state governing the disposition of other public property."

NEW SECTION. **Section 9.** Codification instruction.

[Section 2] is intended to be codified as an integral part of Title 7, chapter 14, part 11, and the provisions of Title 7, chapter 14, part 11, apply to [section 2].

-End-

HB 849 INTRODUCED BY BRADLEY, ET AL.
MONTANA SCHOOL STUDENTS CIGARETTE/TOBACCO REFERENDUM

2/14	INTRODUCED		
2/14	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/15	FIRST READING		
2/15	FISCAL NOTE REQUESTED		
2/19	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
2/22	HEARING		
2/23	COMMITTEE REPORT—BILL PASSED		
2/26	2ND READING PASSED	70	28
2/27	3RD READING PASSED	68	32
	TRANSMITTED TO SENATE		
2/27	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/04	FIRST READING		
3/11	HEARING		
3/13	TABLED IN COMMITTEE		
3/22	TAKEN FROM TABLE		
3/23	COMMITTEE REPORT—BILL CONCURRED		
3/28	2ND READING CONCURRED	28	21
4/01	3RD READING FAILED	25	25
4/02	RECONSIDERED PREVIOUS ACTION	26	23
4/03	3RD READING CONCURRED	26	24
	RETURNED TO HOUSE		
4/11	SIGNED BY SPEAKER		
4/11	SIGNED BY PRESIDENT		
4/11	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 438	EFFECTIVE DATE: 4/16/91	

HB 850 INTRODUCED BY THOMAS, ET AL.
PROPOSED CONSTITUTIONAL AMENDMENT TO PLACE A LIMIT ON GOVERNMENT SPENDING AND TAX COLLECTIONS

2/14	INTRODUCED
2/14	REFERRED TO TAXATION
2/15	FIRST READING
3/15	HEARING
3/19	TABLED IN COMMITTEE

HB 851 INTRODUCED BY WHALEN, ET AL.
REVISING WRONGFUL DISCHARGE ACT

2/14	INTRODUCED
2/14	REFERRED TO JUDICIARY
2/15	FIRST READING
2/22	HEARING
	DIED IN COMMITTEE

HB 852 INTRODUCED BY RUSSELL, ET AL.
REQUIRE BOARD OF PUBLIC EDUCATION TO ADOPT RULES FOR NATIVE AMERICAN COURSES

2/14	INTRODUCED
2/14	REFERRED TO EDUCATION & CULTURAL RESOURCES
2/15	FIRST READING
2/15	FISCAL NOTE REQUESTED
2/19	FISCAL NOTE RECEIVED
2/20	HEARING
2/20	TABLED IN COMMITTEE

HB 853 INTRODUCED BY SCOTT, ET AL.
REVISE PORT AUTHORITY LAWS

2/14	INTRODUCED		
2/14	REFERRED TO LOCAL GOVERNMENT		
2/15	FIRST READING		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	PLACED ON CONSENT CALENDAR		
2/23	OBJECTION TO CONSENT CALENDAR FILED (BILL PLACED ON 2ND READING)		
2/26	2ND READING PASSED AS AMENDED	87	13
2/27	3RD READING PASSED	90	9
	TRANSMITTED TO SENATE		
2/27	REFERRED TO BUSINESS & INDUSTRY		
3/04	FIRST READING		
3/14	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/20	2ND READING CONCURRED	48	0
3/21	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	98	0
4/11	3RD READING AMENDMENTS CONCURRED	99	0
4/19	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/20	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 640	EFFECTIVE DATE: 10/01/91	

HB 854 INTRODUCED BY FOSTER, ET AL.
INSURANCE FUNDING FOR LONG-TERM CARE THROUGH LIFE INSURANCE PRODUCTS

2/14	INTRODUCED		
2/14	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/15	FIRST READING		
2/22	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING PASSED	97	0
2/26	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/26	FIRST READING		
2/26	REFERRED TO BUSINESS & INDUSTRY		
3/11	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	49	0
3/14	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/20	SIGNED BY SPEAKER		
3/20	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 152	EFFECTIVE DATE: 10/01/91	

HB 855 INTRODUCED BY S. RICE, ET AL.
RECYCLED PRODUCTS PROCUREMENT ACT

2/14	INTRODUCED
2/14	REFERRED TO NATURAL RESOURCES
2/15	FIRST READING
2/15	FISCAL NOTE REQUESTED
2/20	FISCAL NOTE RECEIVED
2/21	FISCAL NOTE PRINTED
2/22	HEARING
3/12	TABLED IN COMMITTEE

CHAIRMAN--DIANA WYATT
NORMAL SCHEDULE==> SITE: ROOM 312-2 DAYS: M,W,F TIME: 3:00 P.M.
SECRETARY-LOIS O'CONNOR

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0813	2/13	3/05		PASS AS AMENDED		3/08
O'KEEFE, MARK			ESTABLISH COUNTY RECORDS PRESERVATION FUND			
HB0823	2/13	2/21		TABLED		
WHALEN, TIM			REVISE TRADE PORT AUTHORITY LAWS			
HB0853	2/14	2/21		PASS AS AMENDED		2/22
SCOTT, JOHN			REVISE PORT AUTHORITY LAWS			
HB0925	2/19	2/21		TABLED		
GERVAIS, FLOYD			CHANGE BOUNDARY BETWEEN GLACIER AND PONDERA COUNTIES			
HB0939	2/19	3/07		DO PASS	APPROPRIATIONS	3/12
RICE, SHEILA			URBAN REFORESTATION GRANT PROGRAM			
HB0946	2/19	2/21		TABLED		
MENAHAN, RED			DEDICATE TO TRAFFIC EDUCATION ALL DUI FINES FROM POLICE OFFICER ARRESTS			
HB0952	2/20				NATURAL RESOURCES	
RANEY, BOB			SAND AND GRAVEL OPERATIONS SUBJECT TO ZONING			
HJ0007	1/16	1/29		PASS AS AMENDED		1/30
LARSON, DON			HJR URGING LOCAL GOVERNMENTS TO DEVELOP RECYCLING PROGRAMS			
HJ0011	1/22	2/12		PASS AS AMENDED		2/13
KNOX, DICK			URGE US DEPT OF INTERIOR & BLM TO PROVIDE ACCURATE TAYLOR GRAZING FEE INFO			
HJ0034	2/14	2/21		DO PASS		2/22
STICKNEY, JESSICA			COMBINE VOTER, MOTOR VEHICLE, AND DRIVER LICENSE LISTS FOR PICKING JURORS			
HJ0045	3/15	3/20		DO PASS		3/21
WYATT, DIANA			ENDORSE ROLE OF MONTANA LOCAL GOVERNMENT POLICY COUNCIL			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By DIANA WYATT, CHAIR, on February 21, 1991, at 3:00 P.M.

ROLL CALL

Members Present:

Diana Wyatt, Chair (D)
Jessica Stickney, Vice-Chair (D)
Joe Barnett (R)
Arlene Becker (D)
Vivian Brooke (D)
Brent Cromley (D)
Paula Darko (D)
Tim Dowell (D)
Budd Gould (R)
Stella Jean Hansen (D)
Harriet Hayne (R)
Ed McCaffree (D)
Tom Nelson (R)
Jim Rice (R)
Sheila Rice (D)
Richard Simpkins (R)
Norm Wallin (R)

Members Excused: Dave Brown (D)

Staff Present: Bart Campbell, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 542

Presentation and Opening Statement by Sponsor:

REP. KADAS asked the committee to table HB 542. The people who asked him to sponsor the bill no longer want it.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor: None

of a map and public discussion. It would allow the Heart Butte people, who will be transferred out, to have more say in the boundary changes.

Questions From Committee Members:

REP. McCAFFREE asked **REP. GERVAIS** what the taxable value of the proposed area being annexed into Glacier County is. **REP. GERVAIS** said the only information he brought was the taxable acreage. The taxable acreage belongs to the Tribe and tribal members.

REP. DARKO asked **REP. GERVAIS** if he had tried other methods to change the boundaries. He said he had gone to the Secretary of State's office and was informed the boundaries could be changed legislatively. **REP. DARKO** said there is a method by statute at present to change county boundaries and asked why **REP. GERVAIS** choose this route. **REP. GERVAIS** stated he was advised by the Legislative Council to introduce the bill because they wouldn't run into any constitutional problems.

REP. SIMPKINS asked **Jayne Mitchell** the procedure to change county boundaries. **Ms. Mitchell** stated 7-2-2201 states that a petition from the affected district must be approved by 50% of the voters of both affected counties. It also provides for input from the people who are most affected. **REP. SIMPKINS** asked if there was any statute that says the Legislature can change the boundaries of counties. **Ms. Mitchell** said that there is a provision that the Legislature can create a new county, but a change in existing counties has to follow the procedures in 7-2-2201.

REP. S. J. HANSEN asked **Ms. Mitchell** if the reason for HB 925 was to take the government facilities from one county and move them to another. She said the reason for the petition process is to make sure that all people involved are informed before such a radical change occurs. This would require full discussion from everyone involved and would set a precedent for other counties in the future.

Closing by Sponsor:

REP. GERVAIS said that the Blackfeet are used to changing the boundaries. All of the programs and services are in Browning. There is no input from Heart Butte. The area that HB 925 addresses is entirely owned by the Tribe.

HEARING ON HB 853

Presentation and Opening Statement by Sponsor:

REP. SCOTT, House District 97, Ballantine, stated the port authorities in Billings and Yellowstone County do not work well. HB 853 is a tool to make it work better. Port authorities provide economic development in the state. **REP. SCOTT** supplied amendments. **EXHIBIT 1**

Proponents' Testimony:

Mike Mathew, Chairman, Yellowstone County Commission, stated the commission supports HB 853 as per **REP. SCOTT'S** amendments but they have a problem with the concept of election. There have been concerns about the ability of non-elected bodies to tax.

Cal Cumin, Development Director, Yellowstone County, supports HB 853 and wished to change the section which addresses the election of port authority commissioners. Port authorities are used to promote, stimulate, develop, and advance the general welfare and prosperity of their jurisdiction. The intent of the last legislature was to broaden the port authority power. The old language was left in which was "ports, transportation, and storage". Those three references should be deleted and just reference "port facilities".

Opponents' Testimony:

Bill Fogarty, Manager of Marketing and Traffic, Port of Montana, Butte Silver Bow County, stated concerns about the election of the local port authority and deletion of the transportation and storage language from the bill. It should be a local government option whether it be elected or appointed. It is important to distinguish between the operating and non-operating ports. It is important for future funding to leave in the transportation and storage language.

Ann Mary Dussault, Missoula County Commissioner, stated that one of the powers of the port authority is to levy taxes and expressed concern about an appointed body having taxing authority. HB 853, with the amendments, has merit in that the levying authority would occur with the County Commissioners, but she would like to see the deletion of election of the port authority members. There is a point at which we must consolidate the entities not expand them. If the election language were deleted and the proposed amendments inserted, she would support the bill.

Ron Klophoke, Missoula Economic Development Corporation, stated the original bill and amendments were good. However, electing a body might remove the local counties from the process. As long as the County Commissioners control the levy process, it will insure that the public is involved. Creating another elected body could be detrimental at the local level. The last legislature intended that the port authority include economic development. Economic development involves many things not just freight.

Gordon Morris, Montana Association of Counties, said the election alternative is no alternative. County Commissioners are not going to stand behind the election of port authorities

commissioners because it would create a new, independent tax jurisdiction. We want a board that is empowered, by appointment, by County Commissioners.

Questions From Committee Members:

REP. SIMPKINS asked **Gordon Morris** if the bill should be killed. He stated with the proposed amendments, the committee could come up with a good bill.

REP. DOWELL asked **REP. SCOTT** to comment on the election language of the bill. **REP. SCOTT** stated that County Commissioners and Legislators were elected. Adding the option of being elected or appointed would satisfy everyone involved. **REP. CROMLEY** asked if it would be the option of the County Commissioners. **REP. SCOTT** said yes.

REP. WALLIN asked **Ron Klophoke** why HB 853 couldn't be incorporated into the Economic Development Committee. **Mr. Klophoke** stated the major organization for economic development in Yellowstone County is the Montana Trade Port Authority. This bill started with the language, "ports, transportation, and storage". That language is needed because they were advised by bond council, that if they ever financed a large project, their bonding would be in jeopardy. The law says "ports, transportation, and storage".

REP. CROMLEY asked **Bill Forgarty** if his concern was removing the language of "ports, transportation, and storage" and why. **Mr. Forgarty** said the "ports, transportation, and storage" aspects should be left in the bill for the operating ports who do not deal with economic development. It could jeopardize funding in the future. He has no problem with the economic development portion.

Closing by Sponsor:

REP. SCOTT stated he would like to put a good bill together because he wants to see port authorities work.

HEARING ON HB 823

Presentation and Opening Statement by Sponsor:

REP. WHALEN, House District 93, Billings, stated HB 823 is a trade port authority bill. The purpose is to address problems with the trade port authority in Billings. It has nothing to do with HB 853. The port authority in Billings does not draw upon all the talent available in the community which could make economic development work. Under the current trade port authority law, there is little accountability to the voters for the way the two mill levy is spent. HB 823 requires the budgets of the trade port authority to be reviewed by the County Commissioners and the trade port will sell bonds and dedicate the

Motion/Vote: **REP. SIMPKINS MOVED HJR 34 BE PLACED ON THE CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 791

Motion/Vote: **REP. DARKO MOVED HB 791 DO PASS AND BE PLACED ON THE CONSENT CALENDAR.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 853

Motion: **REP. DARKO MOVED HB 853 DO PASS.**

Motion: **REP. DARKO** moved to amend HB 853.

Discussion:

REP. DARKO explained the amendments: remove the language that requires election of local port authority commissioners. It would mean an amendment in the title, striking new Section 2 on Page 2, removing all references to election throughout the bill.

Vote: Motion to amend carried 16 to 2 with **REPS. DOWELL** and **S. RICE** voting no.

Motion: **REP. DARKO** moved to further amend HB 853.

Discussion:

REP. DARKO explained the amendment: to insert **REP. SCOTT'S** amendment, on Page 5, deleting Section 1 and reinstating the language "at the discretion of the governing bodies creating the amount of tax to be levied by the governing bodies for port purposes".

Vote: Motion to amend carried unanimously.

Motion: **REP. DARKO** moved to further amend HB 853: on Page 4, Lines 4, 5 and 25 continuing to Page 5; "and protection of transportation, storage, and other facilities that promote the safe, efficient, and economical handling of commerce".

Discussion:

Bart Campbell stated they had some concern that the language reflect the economic development capacities of the ports. The committee might want to say "ports, transportation, storage, and economic development facilities".

Motion: **REP. DARKO** amended her motion to reflect the language of **Mr. Campbell.**

Vote: Motion to amend carried unanimously.

Motion/Vote: REP. DARKO MADE A SUBSTITUTE MOTION THAT HB 853 DO PASS AS AMENDED. Motion carried unanimously. **EXHIBIT 3**

EXECUTIVE ACTION ON HB 214

Motion: REP. SIMPKINS MOVED TO RECONSIDER HB 214.

Discussion: REP. SIMPKINS offered an amendment proposed by **REP. CONNELLY. REP. SIMPKINS** explained the amendments. **EXHIBIT 4**

Vote: Motion to reconsider failed 5 to 13. **EXHIBIT 5**

EXECUTIVE ACTION ON HB 716

Motion: REP. DARKO MOVED TO RECONSIDER HB 716.

Discussion:

REP. DARKO stated **REP. CONNELLY** would like the committee to reconsider HB 716. **REP. DARKO** stated she moved to table the bill because there were too many amendments to be made. **REP. CONNELLY** has amended the bill addressing some of the committee's concerns. **REP. SIMPKINS** agreed. **REP. WALLIN** asked what **REP. CONNELLY** has done to address the concerns of the committee. **REP. DARKO** stated that **REP. CONNELLY** assured her that cities will not be taxed twice for animal fees, "animal" would be substituted for "dog", and removed the concern the cities had; in that if they were already paying a fee, they would not have to pay again.

Vote: Motion to reconsider failed on a 9 to 9 tie vote. **EXHIBIT 6**

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL DATE 2-21-91

NAME	PRESENT	ABSENT	EXCUSED
Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett	X		
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown			X
Rep. Brent Cromley	X		
Rep. Tim Dowell	X		
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice	X		
Rep. Sheila Rice	X		
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

CS05LOCGOV.MAN

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Mr. Speaker: We, the committee on Local Government report that House Bill 853 (first reading copy -- white) do pass as amended.

Signed: Diana Wyatt
Diana Wyatt, Chairman

And, that such amendments read:

1. Title, lines 5 and 6.
Following: ";" on line 5
Strike: remainder of line 5 through "COMMISSIONERS" ON LINE 6
Insert: "GRANTING THE LOCAL GOVERNING BODY DISCRETION IN ESTABLISHING MILL LEVIES FOR A PORT AUTHORITY"

2. Title, lines 6 and 7.
Following: "SECTIONS" on line 6
Strike: remainder of line 6 through "7-14-1103," on line 7
Following: "7-14-1125,"
Strike: "AND"

3. Title, line 8.
Following: "7-14-1126,"
Insert: "7-14-1131, AND 7-14-1133,"

4. Page 1, line 11 through page 3, line 17.
Strike: sections 1 through 3 in their entirety
Renumber: subsequent sections

5. Page 4, line 5.
Following: "~~storage~~"
Insert: "transportation, storage, and other"

6. Page 5, lines 15 through 16.
Following: "(1)"
Strike: remainder of line 15 through "bodies" on line 16
Insert: "request annually the amount of tax to be levied by the governing body for port purposes, which request the governing body may in its discretion approve"

7. Page 5, line 25.
Following: "~~storage~~"
Insert: "transportation, storage, or other"

8. Page 6, line 7.
Following: "~~storage~~"
Insert: "transportation, storage, or other"

9. Page 6, line 10.
Following: "~~storage~~"
Insert: "transportation, storage, or other"

10. Page 7, line 9.
Following: "~~storage~~"
Insert: "transportation, storage, or other"

11. Page 7, line 20.
Following: "~~storage~~"
Insert: "transportation, storage, or other"

12. Page 8, line 8.
Following: "~~storage~~"
Insert: "transportation, storage, or other"

13. Page 8, line 20.
Following: "~~storage~~"
Insert: "transportation, storage, or other"

14. Page 8, line 25 through page 9, line 3.
Strike: section 9 in its entirety

15. Page 9, line 4.
Following: line 3
Insert: "Section 6. Section 7-14-1131, MCA, is amended to read:

"7-14-1131. Municipal tax levy. The port authority may ~~certify~~ request annually ~~to~~ from the governing bodies the amount of tax to be levied by each municipality participating in the creation of the port authority, and the municipality may levy the amount ~~certified~~ requested, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes. The levy made may not exceed the maximum levy permitted by 67-10-402 for port purposes or any lower limit that may have been established by the municipality or municipalities in the resolution creating the authority. The municipality shall collect the taxes ~~certified~~ requested by a port authority that it has authorized in the same manner as other taxes are levied and collected and make payment to the port authority. The proceeds of such taxes when and as paid to the port authority must be

deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this part. Prior to the issuance of bonds under 7-14-1133 and 7-14-1134, the port authority or the municipality may by resolution covenant and agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be ~~certified~~ requested, levied, and deposited annually as provided in this section until the bonds and interest thereon are fully paid."

Section 7. Section 7-14-1133, MCA, is amended to read:

"7-14-1133. Bonds and obligations. (1) Except for providing financial support to a private development organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any of its corporate purposes and issue bonds therefor, including refunding bonds, in such form and upon such terms as it determines, payable out of any revenues of the authority, including revenues derived from:

(a) any port or transportation and storage facility;

(b) taxes levied pursuant to 7-14-1131 or 67-10-402;

(c) grants or contributions from the federal government; or

(d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that no bonds may be issued at any time if the total amount of principal and interest to become due in any year on such bonds and on any then outstanding bonds for which revenues from the same source are pledged exceeds the amount of such revenues to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals, and to request taxes, if any are pledged, sufficient to make the revenues from the pledged source in such year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall state on their face the applicable limitations or restrictions regarding the source from which such principal and interest are payable.

(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are declared to be issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

(5) For the security of any such bonds, the authority,

county, or municipality may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenues referred to in this part, prior to the payment of current costs of operation and maintenance of the facilities.

(6) Nothing in this section or 7-14-1134 may be construed to limit the use of port authority revenues, including federal and state money as described in 7-14-1136, to make grants and loans or to otherwise provide financial and other support to private development organizations, including corporations organized under the provisions of the development corporation act in Title 32, chapter 4. Under no circumstances may the credit of the state, county, or municipal governments or their agencies or authorities be pledged to provide financial support to such development organizations.""

EXHIBIT 1
DATE 2-21-91
HB 953

(1) request annually and at the discretion of the governing bodies creating it, the amount of tax to be levied by the governing bodies for port purposes;

authority facilities, and the exercise of any powers granted to port authorities and other public agencies to be severally or jointly exercised are public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of any authority or other public agency, as provided in this part, must be used for public and governmental purposes and as a matter of public necessity."

Section 5. Section 7-14-1111, MCA, is amended to read:

"7-14-1111. General powers of authority. An authority has all the powers necessary or convenient to carry out the purposes of this part, including but not limited to the power to:

~~(1) certify annually to the governing bodies creating it the amount of tax to be levied by the governing bodies for port purposes;~~

(2) sue and be sued, have a seal, and have perpetual succession;

(3) execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this part;

(4) plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect ports-and-transportation-and-storage

LC 1478/01

facilities. For such purposes an authority may, by purchase, gift, devise, lease, or otherwise, acquire real or personal property or any interest therein, including easements.

(5) establish comprehensive port zoning regulations in accordance with the laws of this state;

(6) acquire, by purchase, gift, devise, lease, or otherwise, existing ports--and--transportation--and--storage facilities as may be necessary or convenient to carry out the purposes of this part. However, an authority may not acquire or take over any port-or-transportation-and-storage facility owned or controlled by another authority, county, municipality, or public agency without the consent of such authority, county, municipality, or public agency.

(7) provide financial and other support to organizations in its jurisdiction, including corporations organized under the provisions of the development corporation act in Title 32, chapter 4, whose purpose is to promote, stimulate, develop, and advance the general welfare, economic development, and prosperity of its jurisdiction and of the state and its citizens by stimulating, assisting in, and supporting the growth of all kinds of economic activity, including the creation, expansion, modernization, retention, and relocation of new and existing businesses and industry in the state, all of which will tend to promote business development, maintain

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Govn. COMMITTEE BILL NO. 853

DATE 2-21-91 SPONSOR(S) Scott

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ron Waybill	Mtn Sch Bds.			
Gordon Morris	MBA			
CAL CUMIN	YELLOWSTONE CO			X
Mike Malbert				X
Bill Fogarty	Pres Mont Butte / Silver Bow	853	✓	
Tom Thomson	Meagher Co Comm		X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

CHAIRMAN--J. D. LYNCH
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: M,T,W,T,F TIME: 10:00 A.M.

SECRETARY-DARA ANDERSON

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0774	2/26	3/13		CONCUR		3/13
JOHNSON, ROYAL			ALLOW SPECIFIED LICENSEES TO IMPORT ILLEGAL GAMBLING DEVICES			
HB0779	2/25	3/08		CONCUR		3/08
CROMLEY, BRENT			LIMIT BANKRUPTCY STAYS OF FORECLOSURES UNDER SMALL TRACT FINANCING ACT			
HB0782	2/26	3/11		CONCUR AS AMENDED		3/11
HANSEN, STELLA			CLARIFY REQUIREMENTS OF THE MONTANA JUNK VEHICLE PROGRAM			
HB0816	2/25	3/08		CONCUR AS AMENDED		3/13
HARRINGTON, DAN			MAKE RECREATIONAL VEHICLES SUBJECT TO PROVISIONS OF AUTOMOBILE LEMON LAW			
HB0819	2/26	3/11		CONCUR AS AMENDED		3/11
RUSSELL, ANGELA			PROMOTE STATE-TRIBAL COOPERATION IN ECONOMIC DEVELOPMENT AND TOURISM			
HB0853	2/27	3/14		CONCUR AS AMENDED		3/18
SCOTT, JOHN			REVISE PORT AUTHORITY LAWS			
HB0854	2/26	3/11		CONCUR		3/11
FOSTER, MIKE			INSURANCE FUNDING FOR LONG-TERM CARE THROUGH LIFE INSURANCE PRODUCTS			
HB0863	2/26	3/11		CONCUR AS AMENDED		3/12
BROWN, DAVE			AUTHORIZING TAX CREDITS FOR SMALL BUSINESS INVESTMENT COMPANY			
HB0987	3/26	4/02		CONCUR AS AMENDED		4/02
CROMLEY, BRENT			GENERALLY REVISE THE LAW RELATING TO REGULATION OF PUBLIC ACCOMMODATIONS			
HB0988	3/26	4/02		CONCUR AS AMENDED		4/02
CROMLEY, BRENT			GENERALLY REVISE LAWS REGULATING CAMPGROUNDS, TRAILER COURTS, AND WORK CAMPS			
HB0995	4/09	4/12		CONCUR		4/12
HARPER, HAL			WORKERS' COMPENSATION BONDS ISSUED TO PAY UNFUNDED LIABILITY			

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 14, 1991, at 10:00 a.m.

ROLL CALL

Members Present:
J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Bob Williams (D)

Members Excused: Gene Thayer (R)

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 853

Presentation and Opening Statement by Sponsor:

Representative John Scott, sponsor of the bill, stated that HB 853 is a bill that would allow the election of trade port commissioners. It's an elect or appoint bill. The intent

Presentation and Opening Statement by Sponsor:

Representative John Scott, sponsor of the bill, stated that HB 853 is a bill that would allow the election of trade port commissioners. It's an elect or appoint bill. The intention of this bill is to allow the port authorities, that are formally trade port authorities, the ability to elect or appoint their commissioner. In the case of the county wide trade port, you have the entire county is levying two mills. They should have this option to elect or appoint who should be levying those mills.

Proponents' Testimony:

Gordon Morris, representing the Montana associat counties (MACO), proposed some amendments to the bill (See Exhibit 1).

None

Questions From Committee Members:

None

Closing by Sponsor:

Representative Scott closed by saying that the trade port authorities are very good, and there are more and more communities looking to form these trade port authorities. This bill will just make it easier for them as in making some decisions.

HEARING ON HOUSE BILL 655

Presentation and Opening Statement by Sponsor:

Representative Ed Grady, sponsor of the bill, stated that HB 655 gives a permit to install and use low grade liquified petroleum gas appliances. Lack of access to natural gas, it is necessary and desirable that energy, and all alternatives be available. The legislature declares that low grade liquified petroleum gas appliances are not inherent hazardous, if properly installed and further determines that it is appropriate to allow below grade liquified petroleum gas appliances to be installed in single family dwellings. Without withstanding the prohibition on the installation of by those appliance by the mechanical code and the uniform plumbing code.

Proponents' Testimony:

Tom Hopgood, representing the liquid propane gas association, this bill allows the installation of propane gas appliances below grade, or in another term in basements. It would clarify the law, because of the configuration of state and local building codes in Montana. There are some situations where you can put appliance below grade, and there are some situation where you cannot. This bill would clarify that where it is necessary to use propane gas appliances, that is in situations where natural gas is unavailable, that you would have this alternative with these appliances in your basement. Safety is the issue. The statistics will show that these types of appliances even installed below grade are just as safe as natural gas appliances. If any type of heating device is installed incorrectly, it is potentially unsafe.

Dean Stapleton, representing cenex propane in Lewistown, MT, and the president of the Montana Wyoming propane association, stated that he speaks today about a safety program they use in the propane industry called gas check. Gas check is a nationwide safety program. He then submitted the literature that they give to all of their customers (See Exhibit 3, Exhibit 3A, Exhibit 3B, Exhibit 3C, and Exhibit 3D).

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/14/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER		X	
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

MONTANA
ASSOCIATION OF
COUNTIES

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3/14/91
BILL NO. HB 853

2711 Airport Road
Helena, Montana 59601
(406) 442-5209
FAX (406) 442-5238

HB 853 AMENDMENTS
3RD READING COPY

REPRESENTATIVE SCOTT, SPONSOR

Senate Business Committee

March 14, 1991

1. Page 4, line 12 following "appoint"

   Insert: or at the option of the governing body as set forth in section 2, elect

2. Page 6, line 19 delete "and"
   Insert: or

that if the judgement is on an underline of a promissory noter instrument, if there is not interest rate expressed in the instrument then it is automatically ten percent.

Senator Thayer stated that he does not object to the bill as it is written, but has a problem with striking the language in the title that Representative Rice suggested.

Representative Rice stated that the reason that he has asked that this language be stricken is that it reads "as applying to redemption after a mortgage foreclosure" and these redemption statutes that we are amending do apply to situations other than just mortgage foreclosures.

Closing by Sponsor:

Representative Rice closed be saying that this bill is not Galleria, it is something that is different, and if the committee would like more language to clarify that point it is fine with him.

EXECUTIVE ACTION ON HOUSE BILL 853

Motion:

Senator Noble moved the amendment proposed by MACO.
Senator Noble moved that HB 853 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The amendments to HB 853 passed unanimously.

Recommendation and Vote:

The motion that HB 853 be concurred in as amended passed unanimously. Senator Hager will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 672

Motion:

Senator Williams moved to amend HB 672 by inserting 'solely' on page seven, line six following the word 'individual'.

Senator Hager moved to amend HB 672 on page two, line eighteen, starting by striking 'or' and insert 'the condition may only be excluded for a maximum of twelve months'.

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/18/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	Y		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. 43853 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON
Secretary

J.D. LYNCH
Chairman

Motion: Adopt AMENDMENT

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. H3853 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON
Secretary

J.D. LYNCH
Chairman

Motion: BE CONCURRED IN AS AMENDED
S. HAGER

SENATE STANDING COMMITTEE REPORT

March 18, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 853 (third reading copy -- blue), respectfully report that House Bill No. 853 be amended and as so amended be concurred in:

1. Page 4, line 12.
Following: "appoint"
Insert: "or, at the option of the governing body, elect, as provided in [section 2],"

2. Page 6, line 19.
Strike: "AND"
Insert: "or"

Signed: _____
John "J.D." Lynch, Chairman

3-18-91
Amd. Coord.

Sec. of Senate